

# Note on GST Amendment Act W.E.F. Feb 18

On 7th Aug 2018, CGST Amendment Act, IGST Amendment Act, UTGST Amendment Act and Compensation Amendment Act were presented in Parliament which were enacted on 29th Aug 2018. Thereafter respective state government passed respective SGST Amendment Act in its assemblies. As per decision taken by 32nd GST Council, said amendment in GST Act's are effective from 1st February 2019. Accordingly, Notification No 2/2019 - Central Tax and 02/2019 Integrated Tax, dated 29th Jan 2019 are issued to appoint, effective date as 1st Feb 2019.

Mentioned below are important amendments:

## AMENDMENT IN DEFINATIONS

Following definitions are amended

- Adjudicating authority
- Business
- Business Vertical – Definition Omitted

## AMENDMENT IN UNREGISTERED DEALER REVERSE CHARGE

- Section 9 (4), which mandates that all registered persons shall pay the tax on reverse charge basis on purchases made from unregistered persons, is presently under suspension. This subsection is now being omitted.
- Instead, it is proposed to take an enabling power for the Government to notify **a class of registered persons** who would be liable to pay tax on reverse charge basis in case of receipt of goods/services from an unregistered supplier. As of now no class of registered persons are notified to pay GST on Unregistered suppliers.

## AMENDMENT IN COMPOSITION SCHEME

- The monetary limit for opting for composition scheme is being raised from ₹ 1 crore to ₹ 1.5 Crore.
- At present Manufacturers/ traders who are supplying small portion of services are unable to opt for the composition scheme since provider of service is excluded from list of suppliers opting for composition scheme.

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- A new proviso is being added in order to be allowed to claim composition scheme, if the value of supply of services does not exceed 10% of the turnover in the preceding financial year or Rs. 5 lakhs, whichever is higher.

## AMENDMENT IN SCHEDULE I & SCHEDULE III

### Schedule I (Transactions to be treated as supply even if made without consideration)

Import of services by entities which are not registered under GST (say, they are only making exempted supplies) but are otherwise engaged in business activities is taxed when received from a related person or from any of their establishments outside India.

### Schedule III (Transactions NOT to be treated as supply)

Following entries are added in Sch III,

- 1) Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into the taxable territory.
- 2) Supply of goods stored under Custom warehouse, before clearance of such goods.

## AMENDMENT IN ITC PROVISIONS

- At present, a deeming provision is present u/s 16 to facilitate and allow the ITC in case of “**Bill to --> Ship To**” trade for goods. A provision has been added in u/s 16 to allow the claim of ITC in case of “**Bill To --> Ship To**” trade for **Services** as well.
- It is proposed that reversal of ITC on Common credits is not required for activities or transactions specified in Schedule III (Other than sale of Land and/or Building). Consequently No ITC reversal is required in case of High seas Sales, custom Warehouse Sale.
- At present ITC on Motor vehicles as well as other conveyances is blocked unless the same are used for further sale, transport of goods &/or for training purpose. It is now provided that ITC on motor vehicles having approved capacity of more than 13 persons (including the driver) can be claimed.
- Further it is also provided that credit on “Other Conveyances” such as fork-lifters, work-trucks and other special purpose vehicles etc. is allowed.
- ITC on Repairs & Maintenance, general insurance related to Motor vehicles is now blocked.

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- Presently, in accordance with the provisions of section 17(5)(b), ITC is not available in respect of food and beverages, health services, travel benefits to employees etc. this subsection is amended to allow ITC in respect of such goods or services or both where the provision of such goods or services or both is obligatory for an employer to provide to its employees under any other law for the time being in force.

### AMENDMENT IN ITC UTILIZATION METHOD

Rules & Provisions for utilization of ITC are amended,

ITC UTILISATION **BEFORE** AMENDMENT,

#### ITC UTILIZATION METHOD **BEFORE** AMENDMENT: -

Credit of CGST can be utilised for	Credit of SGST can be utilised for	Credit of IGST can be utilised for	Credit of UT-GST Can be Utilised for
<ul style="list-style-type: none"><li>CGST Liability</li><li>IGST Liability</li></ul>	<ul style="list-style-type: none"><li>SGST Liability</li><li>IGST Liability</li></ul>	<ul style="list-style-type: none"><li>IGST Liability</li><li>CGST Liability</li><li>SGST Liability</li><li>UTGST Liability</li></ul>	<ul style="list-style-type: none"><li>UT-GST Liability</li><li>IGST Liability</li></ul>

ITC UTILISATION **AFTER** AMENDMENT,



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## AMENDMENT IN REGISTRATIONS PROVISIONS

- An e-commerce operator is presently required to take compulsory registration, even if his aggregate turnover in a financial year does not exceed Rs. 20. Lakhs , now Clause (x) of section 24 is being amended to provide that **only** those e-commerce operators who are **required to collect tax at source** under section 52 would be required to take compulsory registration.
- Now persons having multiple places of business in a State or Union territory may obtain separate registrations for each such place of business irrespective of whether the same is separate business vertical.
- *Suspension of Registration:* It is proposed to provide that once a registered person has applied for cancellation of registration, registration will be suspended till the procedural formalities for cancellation are completed; during suspension period GST returns are not required to be filed.
- Special category state list is amended and final list of special category list is as follows,
  - Manipur
  - Mizoram
  - Nagaland
  - Tripura

## AMENDMENT IN CREDIT NOTE / DEBIT NOTE

At present, a credit note / debit note which is issued by the registered person is required to be issued invoice-wise. The amendment seeks to permit a registered person to issue consolidated credit note in respect of multiple invoices issued in a Financial Year, without linking the same to individual invoices.

## AMENDMENT IN GST RETURNS

At present the due date for Form GSTR 3/3B mentioned is 20th day of next month Now, through the amendment, For Final Return ( GSTR 3 / GSTR 3B) government can prescribe

- Different due date for final return
- Quarterly return periodicity for certain classes of registered persons

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Currently any error /mistakes /omission in GST Returns could be corrected in next GST returns now the correction will be prescribed by filing an amendment return in rules. Rules regarding the same would be notified by government.

- Procedure will be prescribed for:
  - Availing the ITC in respect of outward supplier, not furnished by supplier. However such procedure may include maximum credit which can be so availed, not exceeding 20% of ITC available on the basis of details furnished by supplier.
  - Recovery of tax not paid by supplier (Safeguarding against defaulter supplier-No recovery of unpaid tax will be made, if said amount is less than Rs 1,000/-).
- **Joint Responsibility:** Supplier and Recipient will be jointly liable to pay tax / ITC availed, in relation to tax not paid on outward supplies, by supplier.

### AMENDMENT IN REFUND

- It is proposed to allow receipt of payment in Indian rupees, in case of export of services where permitted by the Reserve Bank of India, since particularly in the case of exports to Nepal and Bhutan, the payment is received in Indian rupees as per RBI regulations.
- Relevant date for claiming refund of inverted duty structure is amended to remove the contradiction with Sec 54(3) which used the word “at the end of tax period”, As per amendment, relevant date for calculation of time limitation of 2 years will start from due date of furnishing of refund under Sec 39 for the period in which the claim arises.

### AMENDMENT IN IGST – PLACE OF SUPPLY

- In case of “Transportation of Goods” from India -----> to outside India, place of supply would be = Outside India.
- In case goods are imported in India for temporary period for Job work / repairs etc. and re-exported, the place of supply would not be a place where services are actually performed but it would be the Place of Receipt of service.

Updated on 1<sup>st</sup> March 2019

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**Disclaimer:-** We have made best effort to analyze the various provisions of the act but it should not be treated as professional opinion. You are advised to refer to the provisions of the act and relevant rules before structuring any transactions based on this note.

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